



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 6630-97
6 May 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 May 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 12 February 1969 at age 18. The record shows that on 11 August 1970 you received nonjudicial punishment for an unauthorized absence of about 19 days. You reported to your unit in Vietnam on 3 September 1970. While in Vietnam you received nonjudicial punishment on two occasions and were convicted by a summary court-martial. Your offenses were reckless driving, being off base without a proper pass, and dereliction in the performance of your duties as a truck driver.

You reported to a unit in the United States on 15 September 1971. Twelve days later you received your fourth nonjudicial punishment for wrongful appropriation of five gallons of gasoline. On 20 January 1972 you were granted drug exemption. Eleven days after that you were convicted by a summary court-martial of an 18 day period of unauthorized absence and disobedience. On 7 March 1972 you received your fifth nonjudicial punishment for breaking restriction.

Based on the foregoing record of misconduct you were processed for an administrative discharge by reason of unfitness. On 14

March 1972 you received another nonjudicial punishment for an unauthorized absence of about five hours. An administrative discharge board met on 25 May 1972 and recommended that you be discharged for unfitness with an undesirable discharge. Subsequently, you were an unauthorized absentee from 19 to 26 July 1972 and from 26 July to 8 August 1972. During the second period of unauthorized absence the discharge authority approved the recommendation of the administrative discharge board and directed an undesirable discharge. You were so discharged on 18 August 1972.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your limited education and service in Vietnam. The Board also considered the documentation you submitted showing that in 1997 the Department of Veterans Affairs (DVA) diagnosed you as suffering from Post Traumatic Stress Disorder (PTSD). The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your frequent misconduct. Although you were diagnosed with PTSD in 1997, there is no evidence in the record, and you have submitted none, to show that you had PTSD while you were in the Marine Corps. The Board believed that it was possible that the substance abuse and psychiatric problems mentioned in the DVA psychiatric evaluation were also a factor. The Board noted that you received nonjudicial punishment prior to reporting to Vietnam and the events which you claim led to the PTSD. This suggests that PTSD was not a factor in your subsequent misconduct. Finally, the record shows that you served as a truck driver while in Vietnam and there is no documentation in that record to show that you were in combat. In this regard, the record does not show that you were awarded the Combat Action Ribbon.

However, even if it could be established that you suffered from PTSD while in Vietnam, it does not mean that you were not responsible for your actions or should not have been punished for your misconduct. PTSD is considered to be only a mitigating factor which may or may not result in clemency being granted. Since you knew the consequences of your actions, your continuing offenses led the Board to believe that it was willful misconduct. The Board concluded that the discharge was proper as issued and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director